

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

ROY LEON COOPER,

Petitioner,

v.

CIVIL ACTION NO. 5:12-cv-02613
(Criminal No. 5:10-cr-00228)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

On July 5, 2015, the Petitioner filed a motion under 28 U.S.C. § 2255 to vacate, set aside or correct sentence (Document 70). By *Standing Order* (Document 2) entered on that date, the matter was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On April 21, 2015, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 109) wherein it is recommended that this Court deny the Petitioner's § 2555 motion and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by May 8, 2015¹.

¹The docket reflects that the *Proposed Findings and Recommendation* mailed to the Petitioner was returned as undeliverable on May 6, 2015, and re-mailed to a different address on that date. As of the entry of this *Memorandum Opinion and Order*, no objections have been filed.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that Petitioner's motion under 28 U.S.C. § 2255 to vacate, set aside or correct sentence (Document 70) be **DENIED** and that this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: June 1, 2015



IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA